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7 Attorney for Defendant

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10  
11 IN THE UNITED STATES DISTRICT COURT  
12 FOR THE EASTERN DISTRICT OF CALIFORNIA

13  
14 UNITED STATES OF AMERICA, ) 2:02-cr-418-GEB  
15 Plaintiff, )  
16 v. ) **STIPULATION AND PROPOSED ORDER**  
17 FERNANDO LOPEZ-CUEVAS and )  
18 ANTELMO ONTIVEROS, )  
19 Defendants. )  
20 \_\_\_\_\_ )  
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23 Defendant Fernando Lopez-Cuevas, by and through counsel Krista  
24 Hart, and plaintiff United States of America, by and through counsel  
25 Assistant U.S. Attorney Carolyn Delaney, hereby stipulate that  
26 defendant's Ameline brief which was due on September 25, 2006, is now  
27 due on October 30, 2006.

28 Mr. Lopez-Cuevas went to trial before this Court in February,  
29 2002. Attorney Gil Roquet represented Mr. Lopez-Cuevas during the  
30 trial. After the jury returned a guilty verdict, both defendants  
31 appealed their convictions. Attorney John Ward represented Mr. Lopez-  
32 Cuevas on the appeal. The U.S. Court of Appeals for the Ninth Circuit  
33 remanded the case to this Court in light of the holding in United

1       States v. Booker, 125 S.Ct. 738 (2005). Pursuant to United States v.  
2       Ameline, 409 F.3d 1073 (9<sup>th</sup> Cir. 2005) (en banc) this Court issued an  
3       order on June 19, 2006, ordering the attorneys for all parties to file  
4       briefs answering the questions raised in Ameline. This Court appointed  
5       the undersigned to represent Mr. Lopez-Cuevas on June 13, 2006.

6              The undersigned has not had sufficient time to obtain and review  
7       the materials necessary to answer the Court's question. The  
8       undersigned has obtained materials and transcripts from the former  
9       attorneys. Mr. Lopez-Cuevas indicated that he has material relevant to  
10      the issue. I recently received that information from defendant.

11             The undersigned has been in a jury trial in the Superior Court of  
12      California for the County of Sacramento from August 23, 2006, to  
13      September 29, 2006. Defense counsel has not had time to prepare the  
14      Ameline brief.

15             Therefore, the parties stipulate and agree to the additional time  
16      for defense counsel to review the recently obtained materials and to  
17      prepare the brief.

18      October 4, 2006

/s/ Krista Hart  
Attorney for Fernando Lopez-Cuevas

20      October 4, 2006

McGregor Scott  
United States Attorney

24             Good cause appearing, it is so ordered.

25      Dated: October 4, 2006

27             /s/ Garland E. Burrell, Jr.  
GARLAND E. BURRELL, JR.  
United States District Judge